

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GREAT AMERICAN INSURANCE COMPANY X

Plaintiff,

V.

MARTIN L. SOLOMON, et. al.,

Defendants.

$$\begin{matrix} \mathbf{X} \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ \mathbf{X} \end{matrix}$$

07 CIV 6498 (RMB)

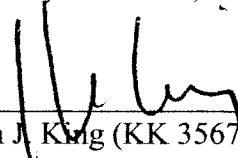
**PLAINTIFF'S MOTION TO DISMISS THE COUNTERCLAIM OF DEFENDANTS
KINGSWAY FINANCIAL SERVICES AND AMERICAN COUNTRY HOLDINGS, INC.**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Plaintiff Great American Insurance Company (“Great American”) hereby moves for an order dismissing the Counterclaim of Defendants Kingsway Financial Services, Inc. and American Country Holdings, Inc. This Court lacks jurisdiction to hear Defendants’ Counterclaim because Defendants lack standing to assert a bad faith claim against Great American. In addition, the Counterclaim’s conclusory allegations fail to state a claim for relief in the absence of any well pled facts from which the Court could plausibly infer that Great American has acted in bad faith. The bases of Plaintiff’s motion are set forth in the accompanying Memorandum of Law along with the attached Declaration of Kenneth J. King. An appropriate proposed Order is attached.

WHEREFORE, Plaintiff respectfully requests that the Court dismiss Defendants' Counterclaim.

Dated: January 10, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. King', is written over a horizontal line.

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ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of Plaintiff Great American Insurance Company's Motion to Dismiss the Counterclaim of Defendants Kingsway Financial Services, Inc. and American Country Holdings, Inc., it is hereby ORDERED that Plaintiff's Motion is GRANTED and Defendant's Counterclaim is dismissed with prejudice.

Berman, J.